

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

December 3, 1998

DIVISION ONE

B119125 People (Certified for Publication)
v
Redic

The order of dismissal is reversed.

Masterson, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

DIVISION TWO

[illegible]

The Court:

The judgment is affirmed.

Boren, P.J., Fukuto, J., Zebrowski, J.

B112019 People v. Swilley (Not for Publication)

The Court:

The judgment is affirmed.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

December 3, 1998-Continued

DIVISION TWO (Continued)

B117219 Lengacher (Not for Publication)
v.
Sheppard, et al.

The judgment is reversed and the matter is remanded for the trial court to exercise its discretion in deciding whether or not to grant plaintiff leave to amend her complaint. The parties are to bear their own costs on appeal.

Zebrowski, J.

We concur: Boren, P.J.
Fukuto, J.

B116084 Lyons (Not for Publication)
v.
Toyota Motor Sales, U.S.A., Inc.

The judgment is affirmed. Respondent to recover costs on appeal.

Zebrowski, J.

We concur: Fukuto, Acting P.J.
 Nott, J.

B117033 Eastman House of California (Not for Publication)
v.
Titan Construction Company, Inc., et al.

The judgment is affirmed. Costs on appeal are awarded to respondent.

Zebrowski, J.

We concur: Boren, P.J.
 Mallano, J. (Assigned)

December 3, 1998-Continued

DIVISION TWO (Continued)

B119082 People (Not for Publication)
v.
Alvarez

The judgment is modified to impose an additional \$200 fine pursuant to Penal Code section 1202.45, suspended unless defendant's parole is revoked, and to award 74 days instead of 246 days of worktime credit pursuant to Penal Code section 2933.1. The abstract of judgment is ordered modified to reflect these changes as well as the original restitution fine imposed as the time of sentencing. In all other respects, the judgment is affirmed.

Zebrowski, J.

We concur: Boren, P.J.
Fukuto, J.

B122383 Tippets (Not for Publication)
v.
Cybermedia, Inc.

The order of April 21, 1998, vacating the judgment and restoring this matter to the Civil Active List is reversed. The arbitration award entered as a judgment on September 8, 1997, is reinstated. Appellant to recover costs on appeal.

Zebrowski, J.

We concur: Fukuto, Acting P.J.
 Nott, J.

December 3, 1998-Continued

DIVISION TWO (Continued)

B113300 Zachary (Not for Publication)
v.
Mogul, et al.

The judgments of nonsuit are affirmed as to SCS Music, L.P. and SCS Communications, Inc. The punitive damage award against Arthur Mogull is reversed, and judgment is entered in Arthur Mogull's favor insofar as punitive damages are concerned. The judgment against Arthur Mogull is otherwise affirmed. SCS Music, L.P. and SCS Communications, Inc. to recover costs from Stephen Zachary. All parties otherwise to bear their own costs.

Zebrowski, J.

We concur: Boren, P.J.
Fukuto, J.

DIVISION THREE

B125818 Vera B. (Not for Publication)
v.
Superior Court, Los Angeles County
(L.A. County Dept. of Children & Family Services, r.p.i.)

The petition is denied.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B117417 People (Not for Publication)
v.
Jesse Fred W.

The order under review is affirmed.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION THREE (Continued)

B104294 Nicole Kallas (Not for Publication)
 v.
 City of Los Angeles Department of Water and Power

The judgment appealed from is affirmed. Defendants shall recover their costs on appeal from plaintiff.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION FOUR

B113156 People
 v.
 Gomez, et al.

Filed order denying petition for rehearing as to appellant Gomez.

B110069 People (Not for Publication)
 v.
 Palmer

The judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Hastings, J.

B121727 People (Not for Publication)
 v.
 Kevin L.

The Court:

The judgment is affirmed.

Vogel (C.S.), P.J., Hastings, J., Curry, J.

December 3, 1998-Continued

DIVISION FIVE

B120112 People (Not for Publication)
v.
Jason Robert Boman

The judgment is affirmed.

Grignon, Acting P.J.

We concur: Armstrong, J.
 Godoy Perez, J.

B118490 People (Not for Publication)
v.
Richard Garner

The judgment is affirmed.

Grignon, Acting P.J.

We concur: Armstrong, J.
 Godoy Perez, J.

B117535 People (Not for Publication)
v.
Charles Lee Simpson

The robbery sentence is stayed pursuant to Penal Code Section 654. A \$200 restitution fine is imposed pursuant to Penal Code section 1202.4. The abstract of judgment is modified to reflect the stay and the fine. As modified, the judgment is affirmed.

Grignon, Acting P.J.

We concur: Armstrong, J.
 Godoy Perez, J.

DIVISION FIVE (Continued)

B116535 TIG Insurance Co. (Not for Publication)
v.
Jonathan Lange, et al.

The judgment and order awarding costs are reversed and the trial court is directed to enter judgment in favor of TIG Insurance Company, TIG Insurance Company of Michigan, TIG Specialty Insurance Company, and TIG Premier Insurance Company. Appellants to recover their costs on appeal.

Godoy Perez, J.

We concur: Turner, P.J.
 Grignon, J.

B118746 People (Not for Publication)
v.
Lance L. Jernigan

The sentence is vacated and the matter remanded solely to allow the court an opportunity to resentence appellant on the 667.5 prior prison term enhancements in accordance with the views expressed in this opinion. In all other respects, the judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Armstrong, J.

B112773 David Kasen (Not for Publication)
v.
Do Hyun Hwang

The judgment is affirmed. Plaintiff and cross-defendant, David Kasen, is to recover his costs on appeal from defendant and cross-complainant, Do Hyun Hwang alias George Hwang.

Turner, P.J.

We concur: Grignon, J.
 Godoy Perez, J.

December 3, 1998-Continued

DIVISION FIVE (Continued)

B115811 People
 v.
 Earl Wayne Westbrook

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

B122866 Mona DeAnda
v.
Smooke & Sons Investments

Filed order granting motion to dismiss appeal. Appeal (notice of appeal filed June 1, 1998) dismissed.

DIVISION SIX

B123684 People (Not for Publication)
v.
Coronado

The judgment (order of commitment) is affirmed.

Yegan, J.

We concur: Gilbert, Acting P.J.
 Coffee, J.

B119957 Trevor (Not for Publication)
v.

Santa Barbara County Employees' Retirement System

The judgment is affirmed. Trevor shall bear costs on appeal.

Gilbert, Acting P.J.

We concur: Yegan, J.
Coffee, J.

December 3, 1998-Continued

DIVISION SIX (Continued)

[illegible]

The judgment is affirmed.

Stone, P.J.

We concur: Gilbert, J.
 Coffee, J.

DIVISION SEVEN

Court convened at 9:00 A.M.

Present: Lillie, P.J., Johnson, J., Woods, J., Neal, J., and Emma Jean Amos, Deputy Clerk.

Each of the following:

B115169 People v. Resnick
B115370 People v. Dozier
B116607 People v. Moses
B117001 People v. Lincoln
B117523 People v. Sandoval
B117685 People v. Aura C.
B118156 People v. Jimenez
B118193 People v. Gregg E.
B118567 People v. Brown
B118685 People v. Tedder
B118883 People v. Eddahbi
B118963 People v. Linares
B119179 People v. Johnson
B119328 People v. Farentino
B119375 People v. Binns
B119485 People v. Smith
B120006 People v. Banks
B121267 People v. Warren
B121764 People v. Ruano
B122089 People v. Banks

DIVISION SEVEN (Continued)

Each of the following: cont.

B121654 DCFS v. Teresa R.
B125648 Verdell N. v. SCLA
B118326 People v. Gorbea
B119570 DCFS v. Justin W.

Argument waived, cause submitted.

B115383 People
 v.
 Alarcon

Merits:

Argued by William L. Heyman for appellant and appearance only by Corey J. Robins, deputy attorney general for respondent. Cause submitted.

B094164 People
 v.
 Ponce

Merits:

Argued by Jonathan Milberg for appellant and by Carl N. Henry, deputy attorney general for respondent. Cause submitted.

B120937 People
 v.
 George Tremayne W.

Merits:

Argued by Lisa M. Bassis for appellant and by M. Susan Sullivan, deputy attorney general for respondent. Cause submitted.

Court recessed at 10:05

DIVISION SEVEN (Continued)

The Court reconvened at 10:15 A.M.

Present: Lillie, P.J., Johnson, J., Woods, J., Neal, J., and Emma Jean Amos, Deputy Clerk.

B121150 People
 v.
 Leo R.

Merits:

Argued by Shiela A. Keiter for appellant and by Stephanie A. Miyoshi, deputy attorney general for respondent. Cause submitted.

B105799 Nelson
 v.
 Smith
 (Cronander)

Merits:

Argued by Charlie Cronander appellant in propria persona and by Steven T. Lowe for respondent. Cause submitted.

B112824 Sojka
 v.
 Zavala

Merits:

Argued by Jan Yoss for appellant and by Keith F. Rouse for respondent. Cause submitted.

B118803 Bernstein
 v.
 Bernstein

Merits:

Argued by John Knoll for appellant and by Thomas W. Harris for respondent. Cause submitted.

DIVISION SEVEN (Continued)

B116270 Salzwedel
 v.
 California State University Northridge

Merits:

Argued by Drew E. Pomerance for appellant and by David Adida, deputy attorney general for respondent. Cause submitted.

B111563 Donohugh
 v.
 Cadwell

Merits:

Argued by Abilio Tavares for appellant and by Alan Goldberg for respondent. Cause submitted.

B118841 Atlantic Richfield Company
 v.
 Franchise Tax Board

Merits:

Argued by Joel A. Feuer for appellant and by Richard W. Bakke, deputy attorney general for respondent. Cause submitted.

B116681 O'Donnel
 v.
 Deo

Oral argument continued to Jan. 7, 1999, at 10:00 A.M.

B113241 Baskerville
 v.
 Proser

Oral argument continued to Jan. 7, 1999, at 2:00 P.M.

Court recessed.

DIVISION SEVEN (Continued)

The Court reconvened at 2:00 P.M.

Present: Lillie, P.J., Johnson, J., Woods, J., Neal, J., and Emma Jean Amos, Deputy Clerk.

B121482 City National Bank
 v.
 EM Genuine Leather Goods & Manufacturing Corp.

Merits:
Argued by Richard Petersen for appellant and no appearance by respondent.
Cause submitted.

B118488 People
 v.
 Pearson

Merits:
Argued by Gregory L. Rickard for appellant and by Ruth L. Wei, deputy attorney general for respondent. Cause submitted.

B116393 People
 v.
 Arellano

Merits:
Argued by Leslie C. Greenbaum for appellant and by Wendy Chase Arenson, deputy attorney general for respondent. In open court the respondent was given 5 days in which to file a letter brief, and appellant to reply within 5 days thereafter. Cause submitted.

B119074 People
 v.
 Warren

Oral argument continued to February 4, 1999, at 9:00 A.M.

DIVISION SEVEN (Continued)

B102747 Hill
 v.
 St. Andrews Abbey

Matter ordered off calendar.

B114114 Wertin
 v.
 Franchise Board

Merits:
Argued by Felix E. Leatherwood, deputy attorney general for appellant and
by M. Edward Mishow for respondent. Cause submitted.

B117076 Wertin
 v.
 Franchise Tax Board

Merits:
Argued by Felix E. Leatherwood, deputy attorney general for appellant and
by James G. Damon for respondent. Cause submitted.

Court adjourned at 3:05 p.m.